

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200901026**
Release Date: 1/2/2009

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:
, ID No.
Telephone Number:

Index Number: 985.00-00

Refer Reply To:
CC:INTL:B05
PLR-134579-08
Date:
October 06, 2008

Trust =
Fund 1 =
Fund 2 =
Fund 3 =
Fund 4 =

Dear :

This is in response to your letter dated August 4, 2008 in which you request a ruling under Treas. Reg. § 1.985-1(b)(1)(iii) that Fund 1, Fund 2, Fund 3, and Fund 4 may each adopt a functional currency other than the United States dollar.

The ruling contained in this letter is predicated upon facts and representations submitted by the Trust and accompanied by a penalties of perjury statement executed by the appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of factual information, representations and other data may be required as part of the audit process. Trust has represented the facts described below.

FACTS:

Trust is a Delaware statutory trust registered with the SEC under the Investment Company Act of 1940 as an open-ended series investment company. The Trust will create a new series for each Fund. Each Fund will be treated as a separate corporation for Federal tax purposes under section 851(g) and each intends to qualify annually as a regulated investment company under Subchapter M of the Internal Revenue Code.

Each Fund intends to operate as an “exchange traded fund” (ETF). The investment objective of each Fund will be to seek to preserve capital, to maintain stability of

principal, and to maintain a high level of liquidity. The Funds will not seek capital appreciation or significant amounts of income as part of their respective investment objectives. Rather, each Fund is designed to decrease in value when the value of the U.S. dollar increases relative to the applicable currency (e.g., Euros, Pounds Sterling, Canadian dollars or Japanese yen) and to increase in value when the value of the U.S. dollar falls relative to the applicable currency.

In seeking to achieve their respective investment objectives, each Fund will invest substantially all of its assets in short-term instruments that (i) are rated investment grade, (ii) are denominated in the local currency referenced by the Fund's name (e.g., Euros, Pounds Sterling, Canadian dollars or Japanese yen) and (iii) have remaining maturities of 60 days or less. In addition, each Fund may invest up to 10% of its assets in money market mutual funds (denominated in U.S. dollars or the applicable currency), U.S. dollar and U.S. cash equivalents.

Consistent with the manner in which ETFs operate, each Fund will issue and redeem shares at net asset value in groups of 25,000 shares or more (such group of shares are referred to as "Creation Units"). Shares of each Fund also are expected to trade on a national securities exchange, over which such shares can be purchased and sold, regardless of quantity.

Each Fund will conduct a significant portion of its activities in the foreign currency to which its investment objective is linked. Each Fund's revenues and expenses, with the exception of management fees and other administrative expenses, normally will be in the foreign currency to which its investment objectives are linked. The Funds will also maintain their books and records in their respective foreign currencies. Purchases of Creation Units will require the purchaser to contribute the appropriate foreign currency to the Fund (or, in some cases, to contribute securities of the type, described above, in which the Fund invests). While the Funds' current distributions are expected to be made in U.S. dollars, redemption distributions normally will be paid by a Fund in its applicable foreign currency (although the Fund may, at its discretion, distribute securities it holds (rather than the applicable foreign currency) in redemption of its shares)). Each Fund will compute its taxable income or loss in its designated currency and translate its taxable income into U.S. dollars using the weighted average exchange rate for the year.

LAW and ANALYSIS:

Section 985(a) of the Internal Revenue Code generally provides that all determinations for Federal income tax purposes shall be made in a taxpayer's functional currency. Sec. 985(a). Except as otherwise provided by ruling or administrative pronouncement, the U.S. dollar is the functional currency of a qualified business unit (QBU) that has the United States as its residence as defined in section 988(a)(3)(B). Treas. Reg. § 1.985-1(b)(1)(iii). Treas. Reg. § 1.989(a)-1(b)(2)(i) provides that a corporation is a QBU. Under

section 988(a)(3)(B)(i)(II), the United States is the residence of a corporation which is a United States person as defined in section 7701(a)(30). The term "United States person" includes a domestic corporation, a corporation created or organized in the United States or under the laws of the United States. Sec 7701(a)(30) and (a)(4). Each Fund intends to qualify as a regulated investment company and will be a domestic corporation if all the requirements of section 851 and its accompanying regulations are met.

As domestic corporations, under section 985 and the applicable regulations thereunder, the functional currency of each Fund would be the U.S. dollar absent a ruling to the contrary. Each Fund would be required to recognize section 988 gain or loss on all of its section 988 transactions because these transactions would be denominated in the Fund's designated currency, which would be a nonfunctional currency to the Fund. Additionally, any QBUs of each Fund with a functional currency other than the U.S. dollar would be subject to 987. Trust represents that were the Funds required to adopt the U.S. dollar as their functional currency, they would be required to recognize foreign currency gain or loss under section 988(c)(1)(B) every time a short-term instrument held by a Fund matured or was otherwise disposed of, which would jeopardize the ability of the Fund to maintain a stable net asset value in its designated currency and to provide investors with an opportunity to receive non-U.S. currency exposure against the U.S. dollar.

The General Explanation of the Tax Reform Act of 1986 states that "[i]n appropriate circumstances, a domestic QBU (such as a regulated investment company organized to invest in securities denominated in a specific currency) may have a foreign currency as the functional currency." Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess., General Explanation of the Tax Reform Act of 1986, at 1093-94 (Comm. Print 1987).

Treas. Reg. § 1.985-1(c)(1) provides that if a QBU is not required to use the dollar as its functional currency, its functional currency shall be the currency of the economic environment in which a significant part of the QBU's activities are conducted, if the QBU keeps, or is presumed to keep, its books and records in such currency. Treas. Reg. § 1.985-1(c)(2) provides that the economic environment in which a significant part of the QBU's activities are conducted shall be determined by taking into account all the facts and circumstances. Treas. Reg. § 1.985-1(c)(2)(i) sets forth some facts and circumstances which are considered when determining the economic environment in which a significant part of the QBU's activities are conducted.

If the ruling requested herein is issued, each Fund would be permitted to determine its functional currency by applying the principles of Treas. Reg. § 1.985-1(c). Under these principles, each Fund would be eligible to adopt its designated currency as its functional currency if the facts and circumstances warrant such a determination. This conclusion is

consistent with the language in the General Explanation of the Tax Reform Act of 1986 as set forth above.

Based solely on the facts and representations submitted and provided that each Fund qualifies as a regulated investment company under section 851(a) of the Code and that each Fund is treated as a separate corporation under section 851(g), Trust may apply the principles of § 1.985-1(c)(2)(i) to determine the functional currency of each Fund. Accordingly, each Fund may adopt its designated currency as its functional currency if the facts and circumstances warrant such a determination. Should a Fund properly adopt its designated currency as its functional currency, it will compute its taxable income or loss in its designated currency and translate its taxable income into U.S. dollars using the weighted average exchange rate for the year.

No opinion is expressed as to whether the Funds qualify as regulated investment companies under section 851(a) of the Code and the accompanying regulations thereunder or whether each Fund may be treated as a separate corporation under section 851(g).

No opinion is expressed as to the character of any amounts received by shareholders as distributions on or redemptions of their shares in a Fund. No opinion is expressed on the character of income or loss realized on a sale by shareholders of their shares in a Fund.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

It is important that a copy of this letter be attached to the Federal income tax return of the taxpayers involved for the taxable year in which the determination covered by this letter is made.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to the Trust's representatives.

Sincerely,

Jeffrey L. Dorfman
Chief, Branch 5
(International)

cc: